

PAUL J. PASCUZZI, State Bar No. 148810  
JASON E. RIOS, State Bar No. 190086  
THOMAS R. PHINNEY, State Bar No. 159435  
FELDERSTEIN FITZGERALD  
WILLOUGHBY PASCUZZI & RIOS LLP  
500 Capitol Mall, Suite 2250  
Sacramento, CA 95814  
Telephone: (916) 329-7400  
Facsimile: (916) 329-7435  
ppascuzzi@ffwplaw.com  
jrios@ffwplaw.com  
tphinney@ffwplaw.com

Proposed Attorneys for  
The Roman Catholic Bishop of Santa Rosa

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SANTA ROSA DIVISION**

In re:

THE ROMAN CATHOLIC BISHOP OF  
SANTA ROSA,

Debtor In Possession.

CASE NO. 23-10113

Chapter 11

Date: March 16, 2023  
Time: 1:00 p.m.  
Location: 1300 Clay Street, Ctrm. 215  
Oakland, CA  
[In person or via Zoom]  
Judge: Hon. Charles Novack

Order Shortening Time

**DEBTOR'S MOTION FOR ORDER (1) PROHIBITING UTILITY  
COMPANIES FROM ALTERING, REFUSING OR DISCONTINUING  
SERVICE, (2) DETERMINING ADEQUATE ASSURANCE OF PAYMENT  
FOR POSTPETITION UTILITY SERVICES UNDER 11 U.S.C. § 366,  
(3) ESTABLISHING PROCEDURES FOR DETERMINING ADEQUATE  
ASSURANCE OF PAYMENT, AND (4) SCHEDULING A FINAL HEARING**

The Roman Catholic Bishop of Santa Rosa ("RCBSR" or "Debtor in Possession"), hereby  
moves (the "Motion") for entry of an order after an interim hearing (1) prohibiting utility companies  
from altering, refusing or discontinuing service; (2) determining that the Debtor in Possession's  
furnishing of deposits to utility companies listed on Exhibit 1 attached hereto constitutes adequate

1 assurance of payment; (3) establishing procedures for assurance requests by the affected utilities  
2 and for determining adequate assurance of payment; and (4) scheduling a final hearing thereon. In  
3 support of this Motion, the Debtor in Possession relies upon the Declaration of Deacon Joe Oberting  
4 in Support of Chapter 11 Petition and First Day Motions filed on the Petition Date (“Oberting  
5 Background Decl.”), the Declaration of Deacon Joe Oberting filed in support of this Motion  
6 (“Oberting Decl.”), as well as all exhibits filed in support of both declarations. In further support  
7 of this Motion, the Debtor in Possession respectfully represent as follows:

### 8 **JURISDICTION**

9 This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue  
10 is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C.  
11 § 157(b)(2)(A), (O). The statutory bases for the relief requested herein are 11 U.S.C. §§ 105(a) and  
12 366.

13 The RCBSR does not, by filing its petition for relief and other documents in this bankruptcy  
14 case, waive any of its rights under any applicable law, including, without limitation, the Code of  
15 Canon law, the First Amendment of the United States Constitution, the Constitution for the State  
16 of California, California’s law on corporations sole (California Corporations Code §§ 10000-  
17 10015), the Religious Freedom Restoration Act, the church autonomy doctrine, charitable trust law,  
18 California trust law, and the rights to object to disclosure of information and to contend that certain  
19 assets discussed in the Motion are not property of the estate.

### 20 **RELIEF REQUESTED**

21 The Debtor in Possession’s ongoing business operations require it to maintain uninterrupted  
22 utility services including electricity, natural gas, telephone, water, waste removal, internet and other  
23 services. Termination of a utility service would cause immediate and irreparable harm to the Debtor  
24 in Possession’s operations and critical reorganization efforts.

25 The Debtor in Possession has multiple facilities and receives utility services from numerous  
26 utility companies. These facilities include the Chancery Office located at 985 Airway Ct., Santa  
27 Rosa, the residence of the Bishop at 1240 Manhattan Way, Santa Rosa, the Newman Center located  
28 near the campus of Sonoma State University at 1798 E Cotati Ave, Penngrove, and offices at

1 Cardinal Newman High School, located at 24 Ursuline Road, Santa Rosa. A list of the utility  
2 companies (“Utility Companies”) and the Debtor in Possession’s corresponding utility company  
3 accounts is listed on Exhibit 1 hereto.<sup>1</sup> None of the Utility Companies hold prepetition deposits.  
4 Prior to the Petition Date, the Debtor in Possession timely remitted payments on monthly utility  
5 service obligations. Average monthly utility bills are approximately \$3,500. Oberting Decl.

6 Pursuant to section 366(c), the Debtor in Possession proposes to provide its Utility  
7 Companies adequate assurance of payment as follows:

8 (a) The Debtor in Possession will provide each Utility Company a cash deposit  
9 (the “Deposit”) in an amount equal to fifty percent of the Debtor in Possession’s estimated monthly  
10 cost of its utility consumption from each Utility Company, less any amounts, if any, for prepetition  
11 existing utility deposits. The estimated monthly cost will be calculated using the average of  
12 monthly invoices for the past year. If a Utility Company provides the Debtor in Possession with  
13 services under multiple accounts, then the Debtor in Possession may provide that Utility Company  
14 with one deposit that equals the aggregate estimated monthly usage under all of the Debtor in  
15 Possession’s accounts with that Utility Company. The Deposit shall be provided within 10 court  
16 days of the receipt by the Debtor in Possession or its bankruptcy counsel of a written request from  
17 a Utility Company for adequate assurance under the Bankruptcy Code.

18 (b) In the event that a Utility Company believes that the Debtor in Possession’s  
19 utility Deposit does not constitute adequate assurance of payment that is “satisfactory” to that  
20 Utility Company in accordance with section 366(c)(2), within 45 calendar days of entry of the  
21 Court’s order approving the Motion, the Utility Company must serve upon the Debtor in Possession  
22 and its counsel, and file with the Court a specific request for adequate assurance (“Assurance  
23 Request”). The Assurance Request must include: (i) the location and account number(s) for which  
24 utility services are provided; (ii) the outstanding balance on the account and a summary of the  
25 Debtor in Possession’s payment history; (iii) the reasons why the Deposit does not constitute  
26 satisfactory adequate assurance of payment; and (iv) a proposal of what would constitute

27 <sup>1</sup> The Debtor in Possession reserves the right to supplement the list of utility companies, and also  
28 reserves the right to argue that any of the listed utility companies do not fall under the purview of  
11 U.S.C. § 366 as a “utility.”

1 satisfactory adequate assurance of payment. Without further order of the Court, the Debtor in  
2 Possession may enter into agreements granting additional adequate assurance to a Utility Company  
3 which timely files and serves an Assurance Request. Failure by a Utility Company to timely file  
4 and serve an Assurance Request shall result in such Utility Company being deemed to have  
5 received satisfactory adequate assurance of payment, and shall be prohibited from altering,  
6 refusing, or discontinuing service to the Debtor in Possession.

7 (c) In the event that one or more Utility Companies submit an Assurance  
8 Request that is determined by the Debtor in Possession to be unreasonable, within twenty-one days  
9 of receipt of such Assurance Request the Debtor in Possession will schedule a hearing on shortened  
10 notice and serve notice of such hearing on the affected Utility Companies. The Utility Companies  
11 shall be prohibited from altering, refusing or discontinuing service to the Debtor in Possession until,  
12 after a hearing on adequate assurance, the Court issues an order authorizing such action.

13 The Debtor in Possession submits that the above proposed adequate assurance to Utility  
14 Companies sufficiently addresses the requirements of section 366. A copy of the proposed Interim  
15 Order granting this Motion is attached hereto as Exhibit 2.

### 16 BACKGROUND

17 On March 13, 2023, the RCBSR filed a voluntary Chapter 11 petition ("Petition Date").  
18 The Debtor in Possession remains in possession of its estate, no trustee having been appointed. The  
19 Debtor in Possession is operating and managing its business as a debtor in possession pursuant to  
20 the provisions of Sections 1107 and 1108 of the Bankruptcy Code.

21 The RCBSR filed this case in order to reorganize its financial affairs pursuant to a plan of  
22 reorganization that will, among other things, fairly, justly, and equitably compensate survivors of  
23 sexual abuse by clergy or others associated with the RCBSR and bring healing to survivors,  
24 parishioners and others affected by past acts of sexual abuse. The RCBSR has limited funds with  
25 which to respond to the voluminous abuse claims. The RCBSR requires the bankruptcy court's  
26 protection and the protection of the bankruptcy laws to make fair and equitable payment on all of  
27 the claims against it, including the claims by survivors of abuse, trade creditors, parishes and others,  
28 while continuing its ministries and support it offers to Catholic parishes and communities.

1 The Diocese of Santa Rosa (the “Diocese”)<sup>2</sup> was created from portions of the Sacramento  
2 Diocese and San Francisco Archdiocese in 1962, and now includes 42 parishes, some of which  
3 have missions associated with them (“Parishes”). The current Bishop of the RCBSR is Bishop  
4 Robert F. Vasa, who was appointed June 30, 2011. The Diocese consists of approximately 178,443  
5 Catholics in the counties of Sonoma, Napa, Mendocino, Lake, Humboldt, and Del Norte covering  
6 approximately 11,711 square miles. While the Diocese is geographically large and very diverse,  
7 demographically it remains the smallest of California’s dioceses. Diocesan priests and permanent  
8 deacons, along with priests, brothers and nuns from more than 20 religious orders serve parishes,  
9 schools, Catholic hospitals and do other outreach within the Santa Rosa Diocese.

10 The primary role of the RCBSR is to provide resources, spiritual leadership, direction,  
11 support, planning, programming, leadership development and other services to individuals of the  
12 Roman Catholic faith, the 42 Parishes, two Catholic high schools (Cardinal Newman High School  
13 in Santa Rosa and parish school St. Vincent de Paul High School in Petaluma), numerous  
14 elementary schools, private schools, cemeteries and various other Catholic-based social and  
15 community service organizations that operate in the Diocese. The RCBSR has 22 lay employees.

16 As a religious organization, the RCBSR has no significant ongoing for-profit business  
17 activities or business income. Revenue for the RCBSR principally comes from the annual ministry  
18 appeal (held in trust for named ministries only), fees for services provided to the Non-Debtor  
19 Catholic Entities (defined below), donations, grants, and RCBSR ministry revenue. The RCBSR’s  
20 fiscal 2023 operating budget is approximately \$12.5 million. The RCBSR operates on a fiscal year  
21 ending June 30.

22 Additional information regarding the circumstances leading to the commencement of the  
23 Chapter 11 Case and information regarding the Debtor in Possession’s operations and structure is  
24 set forth in the Oberting Background Decl.

25 ///

26 ///

---

27 <sup>2</sup> The term “Diocese” is used herein exclusively to refer to geographic territory under the  
28 jurisdiction of the RCBSR, and the terms RCBSR, Debtor, or Debtor in Possession are used herein  
exclusively to refer to the secular legal embodiment of the Diocese.

## LEGAL AUTHORITIES

In general, courts view utility services as a necessary minimum for rehabilitation in a chapter 11 case. *See Whittaker v. Phila. Elec. Co. (In re Whittaker)*, 882 F.2d 791, 794 (3d Cir. 1989). Because utility companies generally exercise practical monopoly power in providing essential services, utility companies may force a bankruptcy debtor to capitulate to payment demands by threatening to terminate service. *See In re Woodland Corp.*, 48 B.R. 623, 624 (Bankr. D.N.M. 1985); *In re Tel-Net Hawaii, Inc.*, 131 B.R. 723, 727 (Bankr. D. Haw. 1991); *see also* Bertrand Pan and Jennifer Taylor, *Sustaining Power: Applying 11 U.S.C. § 366 in Chapter 11 Post-BAPCPA*, 22 BANKR. DEV. J. 371, 373 (2006).

In protecting a debtor from a termination in utility services, section 366(a) works as an injunction and provides, in part, that a “utility may not alter, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis of the commencement of a case under this title or that a debt owed by the debtor to such utility for service rendered before the order for relief was not paid when due.” 11 U.S.C. § 366(a).

At the same time, in ensuring adequate assurance of payment to a utility, section 366(b) requires that the utility may alter, refuse, or discontinue service if the debtor, within 20 days after the petition date, does not furnish “adequate assurance of payment, in the form of a deposit or other security, for service after such date.” 11 U.S.C. § 366(b). “Adequate assurance of payment” does not require an absolute guaranty of payment. *In re Utica Floor Maintenance, Inc.*, 25 B.R. 1010, 1014 (N.D.N.Y. 1982).

In addition, by the enactment of the Bankruptcy Abuse and Consumer Protection Act of 2005 (“BAPCPA”), section 366 was expanded to include subsection (c), which provides that the chapter 11 debtor must provide assurance of payment “satisfactory” to the utility within 30 days of the petition date, and limits the types of security that are acceptable as assurance of payment. *See* 11 U.S.C. § 366(c)(1)(A).<sup>3</sup> After notice and a hearing, a court has the authority to modify the

---

<sup>3</sup> The term “assurance of payment” is limited to: (i) a cash deposit; (ii) a letter of credit; (iii) a certificate of deposit; (iv) a surety bond; (v) a prepayment of utility consumption; or (vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee. 11 U.S.C. § 366(c)(1)(A).

1 amount of an assurance of payment. 11 U.S.C. § 366(c)(2). However, subsection (c), while  
2 specifying proper forms of “assurance of payment,” leaves to the court’s discretion the question of  
3 the proper monetary amounts for “assurance of payment.”

4 The assurances to utility companies set forth under subsections (b) and (c) of section 366  
5 are not mutually exclusive. *In re Lucre, Inc.*, 333 B.R. 151, 155 (Bankr. E.D. Mich. 2005).  
6 However, 11 U.S.C. § 366(c) applies only in chapter 11 cases. *In re Astle*, 338 B.R. 855, 859  
7 (Bankr. D. Idaho 2006); *see also* Pan, *supra*, at 387-88 (discussing that a debtor may be able to  
8 comply with both subsections (b) and (c), but may be impractical due to differing 20-30 day  
9 deadlines, and therefore, subsection (c) would be the better approach in chapter 11 cases).

10 The pre-BAPCPA legislative history of section 366 indicates that Congress sought to  
11 achieve the dual purpose of giving Debtor protection from a termination of utility service, while  
12 protecting utility companies through adequate assurance of payment. *See In re Gehrke*, 57 B.R.  
13 97, 98 (Bankr. D. Or. 1985). The 2005 amendments did not amend the balance of § 366, and  
14 therefore, pre-BAPCPA case law interpreting section 366 remains applicable. *Astle*, 338 B.R. at  
15 861.

16 The bankruptcy court exercises great discretion and flexibility in applying section 366.  
17 *Marion Steel Co. v. Ohio Edison Co. (In re Marion Steel Co.)*, 35 B.R. 188, 195 (Bankr. N.D. Ohio  
18 1983); *see also In re Astle*, 338 B.R. at 861. The bankruptcy court’s authority is further supported  
19 by section 105, which allows for the court to “issue any order, process, or judgment that is necessary  
20 or appropriate to carry out the provisions” of Title 11. *See e.g., In re George C. Frye Co.*, 7 B.R.  
21 856, 857 n.2 (Bankr. D. Me. 1980). A determination under § 366 is necessarily fact-intensive and  
22 looks to the totality of the circumstances. *Marion Steel*, 35 B.R. at 198 (citations omitted); *see also*  
23 *Astle*, 338 B.R. at 861.

24 Here, the Debtor in Possession proposes to provide each Utility Company that so requests  
25 a cash deposit equal to fifty percent of one month’s average historical invoice amount, calculated  
26 over the past year. Courts have previously approved a debtor’s deposits in the amount of fifty  
27 percent of one month’s worth of service as adequate. *In re Best Products Co.*, 203 B.R. 51, 54  
28



1 (Bankr. E.D. Va. 1996).<sup>4</sup> Adequate funds have been budgeted for payment of anticipated post-  
2 petition utility services. Oberting Motion Decl.

3 The Debtor in Possession submits that it satisfies the requirements of section 366 by  
4 proposing an acceptable form of adequate assurance of payment. The Debtor in Possession also  
5 has proposed reasonable procedures that will allow for a Utility Company to submit an Assurance  
6 Request and for the scheduling of a hearing thereon. The Debtor in Possession anticipates that in  
7 conjunction with the proposed Deposits, the Debtor in Possession will maintain postpetition  
8 liquidity, and therefore, the Utility Companies will not suffer any prejudice. Therefore, Utility  
9 Companies which receive a Deposit should not be permitted to alter, refuse, or discontinue service  
10 to the Debtor in Possession absent further order from the Court. Any alteration of service would  
11 severely impact and hamper the Debtor in Possession's operations and reorganization efforts.

#### 12 NOTICE

13 No trustee, examiner or creditors' committee has been appointed in this chapter 11 case.  
14 Notice of the hearing on this Motion has been provided to the Office of the United States Trustee,  
15 the Debtor in Possession's secured creditors if any, the holders of the 20 largest unsecured claims  
16 against the Debtor in Possession as indicated in its petition, and the Utility Companies. Because of  
17 the nature of the relief requested, Debtor in Possession respectfully submits that no further notice  
18 is necessary or required.

#### 19 CONCLUSION

20 For the reasons set forth above, the Debtor in Possession respectfully request that this Court  
21 enter an order:

- 22 1. Prohibiting utility companies from altering, refusing or discontinuing service;
- 23 2. Determining on an interim basis that the Debtor in Possession's furnishing of
- 24 deposits to utility companies listed on Exhibit A hereto constitutes adequate assurance of payment

25 ///

26 ///

---

27 <sup>4</sup> Bankruptcy courts in California have granted similar relief in chapter 11 cases such as *In re*  
28 *Roman Catholic Bishop of Stockton*, Case No. 14-20371 (Bankr. E.D.Cal. 2014) at Dkt. Nos 65 and 168.



1 under section 366;

2 3. Establishing procedures for assurance requests by affected utility companies, and  
3 for determining adequate assurance of payment as provided herein;

4 4. Scheduling a final hearing on the Motion; and

5 5. For such further relief as the Court deems necessary.

6 Dated: March 13, 2023

7 FELDERSTEIN FITZGERALD  
8 WILLOUGHBY PASCUZZI & RIOS LLP

9 By: /s/ Paul J. Pascuzzi

10 PAUL J. PASCUZZI  
11 Proposed Attorneys for The Roman  
12 Catholic Bishop of Santa Rosa, a California  
13 corporation sole  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 1

**Exhibit 1: List of Utility Companies and Accounts**

<b>Name and Address of Utility</b>	<b>Type of Service/ Account No.</b>	<b>Property Address Where Utility Provided (if applicable)</b>
AT&T Mobility P.O. Box 6463 Carol Stream, IL 60197-6463	Mobile phones Acct# 8750444301	
AT&T Teleconference Services P.O. Box 5002 Carol Stream, IL 60197-5002	Shared Conferencing Acct# 43884495-00001	
Bay Alarm P.O. BOX 51041 Los Angeles, CA 90051	Office alarm system	985 Airway Ct, Santa Rosa
City of Santa Rosa P.O. Box 1658 Santa Rosa, CA 95402-1658	Water Acct# 008817	Newman Center 1798 E Cotati Ave, Penngrove and 1240 Manhattan Way, Santa Rosa
Comcast P.O. Box 60533 City Of Industry, CA 91716-0533	Phone service Acct# 960197914	24 Ursuline Rd., Santa Rosa Phones for several offices (campus of Cardinal Newman High School, several chancery ministries have offices there)
Comcast Business P.O. Box 37601 Philadelphia, PA 19101-0601	Internet service Acct# 815530021- 0174793	24 Ursuline Rd., Santa Rosa Internet for several offices (campus of Cardinal Newman High School, and several chancery ministries have offices there)
Mitel P.O. Box 53230 Phoenix, AZ 85072-3230	Phone system Acct# 15222	985 Airway Ct, Santa Rosa
Penngrove Water 4982 Sonoma Hwy Santa Rosa, CA 95409-4247	Water Acct# CM-685	Newman Center 1798 E Cotati Ave, Penngrove, CA
PG&E P.O. BOX 997300 Sacramento, CA 95899-7300	Gas & Electric Acct# 4780611722-3 & 3939888946-7	1240 Manhattan Way (bishop's residence) and Newman Center 1798 E Cotati Ave, Penngrove
Recology P.O. BOX 51219 Los Angeles, CA 90051-5519	Compost and recycling, waste Acct# 1810791798	1240 Manhattan Way (bishop's residence) and Newman Center 1798 E Cotati Ave, Penngrove
Sonicnet Inc.	Internet Ref# ssunewman	Newman Center 1798 E Cotati Ave, Penngrove, CA
TPX Communications P.O. BOX 509013 San Diego, CA 92150-9013	Internet (incl. hardware) and data storage Acct# 166854	985 Airway Ct, Santa Rosa

# EXHIBIT 2

1 PAUL J. PASCUZZI, State Bar No. 148810  
2 JASON E. RIOS, State Bar No. 190086  
3 THOMAS R. PHINNEY, State Bar No. 159435  
4 FELDERSTEIN FITZGERALD  
5 WILLOUGHBY PASCUZZI & RIOS LLP  
6 500 Capitol Mall, Suite 2250  
7 Sacramento, CA 95814  
8 Telephone: (916) 329-7400  
9 Facsimile: (916) 329-7435  
10 ppascuzzi@ffwplaw.com  
11 jrios@ffwplaw.com  
12 tphinney@ffwplaw.com

13 Proposed Attorneys for  
14 The Roman Catholic Bishop of Santa Rosa

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SANTA ROSA DIVISION**

In re:

THE ROMAN CATHOLIC BISHOP OF  
SANTA ROSA,

Debtor In Possession.

CASE NO. 23-10113

Chapter 11

Date: March 16, 2023  
Time: 1:00 p.m.  
Location: 1300 Clay Street, Ctrm. 215  
Oakland, CA  
[In person or via Zoom]  
Judge: Hon. Charles Novack

**INTERIM ORDER GRANTING DEBTOR'S MOTION FOR ORDER  
(1) PROHIBITING UTILITY COMPANIES FROM ALTERING, REFUSING  
OR DISCONTINUING SERVICE, (2) DETERMINING ADEQUATE ASSURANCE  
OF PAYMENT FOR POSTPETITION UTILITY SERVICES UNDER 11 U.S.C.  
§ 366, AND (3) ESTABLISHING PROCEDURES FOR DETERMINING  
ADEQUATE ASSURANCE OF PAYMENT (4) SCHEDULING A FINAL HEARING**

The motion of The Roman Catholic Bishop of Santa Rosa ("RCBSR" or "Debtor in Possession"), for an Order (1) Prohibiting Utility Companies from Altering, Refusing or Discontinuing Service; (2) Determining that the Debtor in Possession's Furnishing of Deposits to Utility Companies listed on Exhibit 1 (attached to the Motion) in an amount that represents fifty percent of the debtor's estimated average monthly usage over the past twelve months of such utility respectively constitutes adequate assurance of payment; (3) Establishing Procedures for

1 Assurance Requests by the Affected Utilities and for Determining Adequate Assurance of  
2 Payment; and (4) Scheduling a final hearing (the “Motion”) came on for hearing on an interim  
3 basis on March 16, 2023, at 1:00 p.m., in Courtroom 215 of the United States Bankruptcy Court  
4 for the Northern District of California. The Debtor in Possession appeared through its counsel,  
5 Paul J. Pascuzzi. Other appearances were noted on the record. All capitalized terms used but not  
6 defined in this Order shall have the meanings given to them in the Motion.

7 The Court having considered the Motion, the Declaration of Joe Oberting regarding  
8 description of Debtor in Possession and Pre-Filing History filed on the Petition Date, the  
9 Declaration of Joe Oberting filed in support of this Motion, and the matters reflected in the record  
10 of the hearing, and the Court having found that it has jurisdiction over this proceeding; that this is  
11 a core proceeding; that notice of the Motion has been given to the Office of the United States  
12 Trustee, the twenty largest unsecured creditors, all secured creditors, and any applicable  
13 governmental entities; that no further notice is necessary; that the relief sought in the Motion is in  
14 the best interests of the Debtor in Possession, its estate, and its creditors; and that good and  
15 sufficient cause exists for such relief,

16 Accordingly, it is hereby ORDERED as follows:

- 17 1. The Motion (Docket No. \_\_) is GRANTED on an interim basis as provided herein.
- 18 2. Within five (5) business days of the Court’s entry of this Order, the Debtor in  
19 Possession shall serve each Utility Company listed on Exhibit 1 to this Order with a copy of this  
20 Order via first class mail, and the Debtor in Possession shall serve all persons requesting special  
21 notice herein, counsel for any statutory committee(s), if one has been appointed or, if not, on the  
22 20 largest unsecured creditors for the Debtor in Possession as identified in the Debtor in  
23 Possession’s petition, on the Office of the United States Trustee for the Northern District of  
24 California, and counsel for the secured creditors, pursuant to Federal Rules of Bankruptcy  
25 Procedure Rule 4001(b).
- 26 3. The Debtor in Possession is authorized, but not required, to timely remit payments  
27 for undisputed invoices for postpetition services by the Utility Companies in accordance with the  
28 Debtor in Possession’s prepetition practices.

1           4.       Within ten (10) court days of the receipt by the Debtor in Possession or its  
2 bankruptcy counsel of a written request from a Utility Company for adequate assurance under the  
3 Bankruptcy Code, the Debtor in Possession will provide each Utility Company a cash deposit (the  
4 “Deposit”) in an amount equal to fifty percent of the Debtor in Possession’s estimated monthly cost  
5 of its utility consumption from each Utility Company, less any amounts for prepetition existing  
6 utility deposits. If a Utility Company provides the Debtor in Possession with services under  
7 multiple accounts, then the Debtor in Possession may provide that Utility Company with one  
8 deposit that equals fifty percent of the aggregate estimated monthly usage under all of the Debtor  
9 in Possession’s accounts with that Utility Company.

10           5.       Except in accordance with the procedures set forth herein, and absent further order  
11 of the Court, each Utility Company is prohibited from (a) altering, refusing, or discontinuing utility  
12 services solely on the basis of the commencement of Debtor in Possession’s case under the  
13 Bankruptcy Code or on account of any unpaid prepetition invoice for utility services, and  
14 (b) requiring the payment of any additional deposit or other security to the Utility Companies for  
15 the continued provision of utility services.

16           6.       If a Utility Company is not satisfied with the assurance of future payment provided  
17 by the Debtor in Possession, the Utility Company must serve upon counsel for the Debtor in  
18 Possession a written request for adequate assurance (“Assurance Request”), setting forth (i) the  
19 location and account number(s) for which utility services are provided; (ii) the outstanding balance  
20 on the account and a summary of the Debtor in Possession’s payment history; (iii) the reasons why  
21 the Deposit does not constitute satisfactory adequate assurance of payment; and (iv) a proposal of  
22 what would constitute satisfactory adequate assurance of payment.

23           7.       The Assurance Request must be received by the Debtor in Possession’s counsel,  
24 Felderstein Fitzgerald Willoughby Pascuzzi & Rios LLP, 500 Capitol Mall, Suite 2250,  
25 Sacramento, California 95814 (Attention: Paul J. Pascuzzi) within forty-five (45) calendar days of  
26 the date a Final Order granting the Motion is entered.

27           8.       Without further order of the Court, the Debtor in Possession may enter into  
28 agreements granting additional adequate assurance to a Utility Company serving an Assurance



1 Request, if the Debtor in Possession, in its discretion, determines that the request is reasonable.

2 9. If the Debtor in Possession determines that an Assurance Request is unreasonable,  
3 then the Debtor in Possession shall, within twenty-one (21) days of receipt of such Assurance  
4 Request, file a motion ("Determination Motion") pursuant to 11 U.S.C. § 366(c)(3) seeking a  
5 determination from the Court that the Deposit, plus any additional consideration offered by Debtor  
6 in Possession, constitutes adequate assurance of payment and set the Determination Motion for  
7 hearing on shortened time. Pending notice and a hearing on the Determination Motion, the Utility  
8 Company that is the subject of the unresolved Assurance Request may not alter, refuse, or  
9 discontinue services to the Debtor in Possession or recover or setoff against a prepetition deposit.

10 10. Nothing set forth herein is intended to, nor shall it, modify or alter the burdens of  
11 proof in connection with a Determination Motion.

12 11. Based on the establishment of the Deposit, a Utility Company will be deemed to  
13 have adequate assurance of payment unless and until a future order of this Court is entered requiring  
14 further assurance of payment.

15 12. The deadline by which objections to the Motion must be filed is \_\_\_\_\_, 2023, and  
16 such objections must be filed with the Clerk of the Bankruptcy Court and served upon counsel to  
17 the Debtor in Possession, counsel to the secured creditors, the Office of the United States Trustee  
18 for the Northern District of California, and counsel to any statutory committee(s) appointed in this  
19 case. A final hearing, if required, on the Motion before the undersigned United States Bankruptcy  
20 Judge will be held on \_\_\_\_\_, 2023 at \_\_\_\_\_.m. (PT). If no objections are filed to the  
21 Motion, the Court may enter the Final Order without further notice or hearing.

22 13. The Debtor in Possession is authorized, in its sole discretion, to amend the list of  
23 Utility Companies attached as Exhibit 1 to add or delete any Utility Company.

24 14. Nothing in the Motion, Exhibit 1 thereto or this Order constitutes a finding that any  
25 entity is or is not a utility company hereunder or under section 366 of the Bankruptcy Code.

26 15. Notwithstanding the relief granted herein and any actions taken pursuant hereto,  
27 nothing herein shall be deemed: (i) an admission as to the validity of any claim against the Debtor  
28 in Possession; (ii) a waiver of the Debtor in Possession's rights to dispute any claim on any grounds;

1 (iii) a promise or requirement to pay any claim; (iv) an implication or admission that any particular  
2 claim is of a type specified or defined hereunder; (v) a request or authorization to assume any  
3 agreement, contract or lease pursuant to section 365 of title 11 of the Bankruptcy Code; or (vi) a  
4 waiver of the Debtor in Possession's rights under the Bankruptcy Code or any other applicable law.

5 16. This Court shall retain jurisdiction over all matters arising from or related to the  
6 interpretation or implementation of this Order.

7 17. The Debtor in Possession and its employees and agents are authorized to take or  
8 refrain from taking such acts as are necessary and appropriate to implement and effectuate the relief  
9 granted herein.

10 APPROVED AS TO FORM.

11 OFFICE OF THE UNITED STATES TRUSTEE  
12 \_\_\_\_\_  
13  
14  
15

16 \*\*\*END OF ORDER\*\*\*  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 1

**Exhibit 1: List of Utility Companies and Accounts**

<b>Name and Address of Utility</b>	<b>Type of Service/ Account No.</b>	<b>Property Address Where Utility Provided (if applicable)</b>
AT&T Mobility P.O. Box 6463 Carol Stream, IL 60197-6463	Mobile phones Acct# 8750444301	
AT&T Teleconference Services P.O. Box 5002 Carol Stream, IL 60197-5002	Shared Conferencing Acct# 43884495-00001	
Bay Alarm P.O. BOX 51041 Los Angeles, CA 90051	Office alarm system	985 Airway Ct, Santa Rosa
City of Santa Rosa P.O. Box 1658 Santa Rosa, CA 95402-1658	Water Acct# 008817	Newman Center 1798 E Cotati Ave, Penngrove and 1240 Manhattan Way, Santa Rosa
Comcast P.O. Box 60533 City Of Industry, CA 91716-0533	Phone service Acct# 960197914	24 Ursuline Rd., Santa Rosa Phones for several offices (campus of Cardinal Newman High School, several chancery ministries have offices there)
Comcast Business P.O. Box 37601 Philadelphia, PA 19101-0601	Internet service Acct# 815530021- 0174793	24 Ursuline Rd., Santa Rosa Internet for several offices (campus of Cardinal Newman High School, and several chancery ministries have offices there)
Mitel P.O. Box 53230 Phoenix, AZ 85072-3230	Phone system Acct# 15222	985 Airway Ct, Santa Rosa
Penngrove Water 4982 Sonoma Hwy Santa Rosa, CA 95409-4247	Water Acct# CM-685	Newman Center 1798 E Cotati Ave, Penngrove, CA
PG&E P.O. BOX 997300 Sacramento, CA 95899-7300	Gas & Electric Acct# 4780611722-3 & 3939888946-7	1240 Manhattan Way (bishop's residence) and Newman Center 1798 E Cotati Ave, Penngrove
Recology P.O. BOX 51219 Los Angeles, CA 90051-5519	Compost and recycling, waste Acct# 1810791798	1240 Manhattan Way (bishop's residence) and Newman Center 1798 E Cotati Ave, Penngrove
Sonicnet Inc.	Internet Ref# ssunewman	Newman Center 1798 E Cotati Ave, Penngrove, CA
TPX Communications P.O. BOX 509013 San Diego, CA 92150-9013	Internet (incl. hardware) and data storage Acct# 166854	985 Airway Ct, Santa Rosa